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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,913	03/25/2004	Alec Brusilovsky	LUC-480/Brusilovsky 6-7-2	8063
32205 7590 05/01/2008 PATTI, HEWITT & AREZINA LLC ONE NORTH LASALLE STREET 44TH FLOOR CHICAGO, IL 60602			EXAMINER ROSE, KERRI M	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 05/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,913

Applicant(s)

BRUSILOVSKY ET AL.

Examiner

KERRI M. ROSE

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 10, filed 3/21/2008, with respect to the rejection(s) of claim(s) 19 and 20 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the fact that a service control point is inherent.
2. Applicant's arguments filed 3/21/2008, with respect to the rejection(s) of claim(s) 8 and 9 have been fully considered but they are not persuasive. Applicant argues Michael does not teach implementing the call event monitoring in any other way. However, as previously pointed out, Michael discloses implementing the call event monitoring within the PSTN. If the invention is moved to the PSTN, as suggested by Michael, then the example given by the applicant on page 8 is invalid. The phone call made by Bob, originating in the PSTN, to Patrick, also in the PSTN, will traverse the routing system and presence server, which are also in the PSTN because Michael suggested moving them to the PSTN in paragraph 34. Applicant states one of ordinary skill would not know how to make such a switch. In other words the applicant suggests the prior art is not enabled. The burden is on the applicant to provide evidence that such a switch is not properly enabled.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 8, 9, 11, 13-15 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Michael et al. (US 2004/0170263).
5. In regards to claim 1, Michael discloses a method for providing presence state information comprising the steps of: receiving first messages (figure 4 elements 402 and 408) from at least one switch in the public switched telephone network (fig. 5.116, 118) containing call event information for at least one telephone line among a plurality of telephone lines served by the one switch; determining a presence state of a PSTN subscriber associated with the at least one telephone line (fig 4. 412) based on the call event information where the call event information defines both when the telephone line is available and is not available to receive a call (fig. 2.206; paragraph 34; paragraph 36 which indicates a call can be intercepted and rerouted based upon presence information and other rules); transmitting a second message using Internet protocol to a first Internet terminal equipment of a first Internet user (fig. 5.120, 122), the second message containing the presence state information associated with the at least one telephone line (fig. 4.422).
6. In regards to claim 4, Michael discloses displaying a visual indicia corresponding to the presence state (fig. 1).
7. In regards to claims 8 and 9, Michael discloses sending the first message from the PSTN switch in a PSTN compatible protocol (fig. 4.408) and are transmitted on every occurrence of the one telephone line changing from one presence state to another presence state (fig. 2.206, 208).

8. In regards to claim 13, Michael discloses wherein the at least one telephone line is connected to a PSTN terminal that is not capable of direct Internet communications. (Michael lists the PSTN terminals in fig. 5.118. These terminals are not illustrated as being connected to the LAN/Internet network [5.102] and are further distinguished from the LAN telephones [5.120] and computers [5.122]. Therefore, Michael does not teach the PSTN terminals as capable of direct Internet communications.)

9. Claims 14 and 15 are rejected upon the same grounds as claims 1 and 4 respectively.

10. In regards to claims 11 and 18-20, Michael discloses a service control point as part of an intelligent node to receive the first message. (As disclosed in paragraph 29 the PSTN switch may be integrated with the multimedia server. A service control point that is part of an intelligent node is inherent within an intelligent network. An intelligent network is one in which a PSTN is able to provide value-added services, such as presence monitoring. The configuration as described by Michael conforms to the definition of an intelligent network and therefore a service control point that is part of an intelligent node is inherent to the system taught by Michael.).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-7, 10, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al (previously cited) in view of Michael et al. (US 2004/0170263).

13. In regards to claims 1 and 14, Tang discloses receiving call event information; determining presence state information; and transmitting the presence information to an Internet terminal. Figure 9 discloses a plurality of phones connected to a telephony network through a switch. The Awarenex server determines the presence based on call events. The Awarenex server proxy on the Internet side then receives presence information and displays the information, such as shown in figure 6.

Tang does not disclose using PSTN.

Michael discloses determining the presence of PSTN subscribers in figure 4 elements 402, 408, and 412 and figure 5 elements 116 and 118.

It would have been obvious to one of ordinary skill in the art for the corporate network of Tang to be built using PSTN, as taught by Michael because PSTN is a well known. Using PSTN instead of the phone network taught by Tang is a simple substitution of one known element for another with predictable results. PSTN is also one of a small subset of available telephony protocols and therefore would be obvious to try.

14. In regards to claim 2, Tang discloses storing a previous call state in figure 7. Figure 7 discloses each device associated with a user. The device currently in use is marked as active and all other devices display the time since their last active call state.

15. In regards to claim 3, Tang discloses determining the current presence by comparing a current call state to a previous call state. In figure 7, the office is recommended as the likely

location of the user. This is determined by comparing the active state of equipment there to the idle state of all other equipment associated with that particular user.

16. In regards to claims 4-7 and 15-17, Tang discloses visual indicia with time information in figure 6. Figure 6 discloses a “buddy list” with each user’s name, location, time since last activity or current activity, and current or next appointment time.

17. In regards to claims 10 and 12, Tang discloses tracking call timing. Figure 6 shows the active and idle times for a buddy list. Figure 7 shows the active and idle time for a particular user on the buddy list.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KERRI M. ROSE whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Thursday, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Aung MOE can be reached on (571) 272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2616

/Kerri M Rose/
Examiner, Art Unit 2616